



0000009204



November 20, 2000

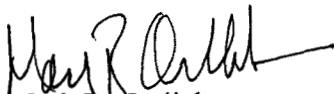
Docket Control
Arizona Corporation Commission
Utilities Division
1200 West Washington
Phoenix, Arizona 85007-2996

Re: Docket No. T-00000B-97; In the Matter of US West Communications,
Inc.'s Compliance With Section 271 of the Telecommunications Act of
1996

Enclosed for filing are an original and 10 copies of SBC Telecom's Submission in the
above referenced matter.

Should you have any question do not hesitate to call me at (210) 641-3575.

Sincerely,


Mark R. Ortlieb
Senior Counsel

Enc.

cc: Arizona Corporation Commission (10 copies)
All Parties of Record

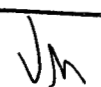
ORIGINAL 47
SBC Telecom, Inc.
5800 Northwest Parkway, Suite 125
Room 1-T-20
San Antonio, Texas 78249
Phone: 210 641-3575
Fax: 210 641-3547
Email: mo2753@sbc.com

RECEIVED

2000 NOV 21 P 1:02

AZ CORP COMMISSION
DOCUMENT CONTROL Arizona Corporation Commission
DOCKETED

NOV 21 2000

DOCKETED BY	
-------------	---

ARIZONA CORPORATION COMMISSION RECEIVED

2000 NOV 21 P 1:03

AZ CORP COMMISSION
DOCUMENT CONTROL

CARL J. KUNASEK
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner

THE MATTER OF US WEST)
COMMUNICATIONS, INC.'S)
COMPLIANCE WITH SECTION 271)
OF THE TELECOMMUNICATIONS)
ACT OF 1996)

DOCKET NO. T-00000B-
97-0238IN

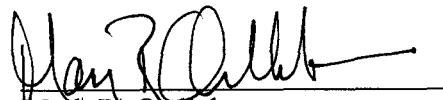
SUBMISSION OF SBC TELECOM, INC.

SBC Telecom, Inc. ("SBCT") hereby submits the attached "redlined" version of the Qwest Performance Assurance Plan. The attached "redlined" version is submitted at the request of the Staff of the Arizona Corporation Commission ("ACC") and is intended to assist the ACC in understanding the changes necessary to conform the Qwest plan to the performance measurement plan adopted by the Texas PUC and deemed acceptable by the FCC for SWBT's 271 approval in Texas. It is not the intent of SBCT in this filing to advocate any particular outcome in this proceeding.

The attached is a copy of the Performance Assurance Plan drafted by Qwest, with the addition of certain language included by SBCT. All of SBCT's additions appear as underlined text. The underlined text shows the additions that would have to be made to the Qwest Performance Assurance Plan in order to bring it into conformance with the orders issued by the Texas Public Utility Commission in connection with its July, 2000 compliance review of Southwestern Bell's performance measurement plan. Section 271 Compliance Monitoring of Southwestern Bell Telephone Company of Texas, Project No. 20400, Order No. 13, and

1 Implementation of Docket Numbers 20226 and 20272, Project No. 22165, Order No. 15,
2 Approving Modifications to Performance Remedy Plan and Performance Measurements,
3 released July 19, 2000 ("Performance Measurements Modifications Order"), as modified by
4 Section 271 Compliance Monitoring of Southwestern Bell Telephone Company of Texas, Project
5 No. 20400, Order No. 20, and Implementation of Docket Numbers 20226 and 20272, Project No.
6 22165, Order No. 21, Approving Modifications to Performance Remedy Plan and Performance
7 Measurements, released August 24, 2000 ("Performance Measurements Modifications
8 Reconsideration Order").

9
10 Respectfully Submitted this 20th day of November, 2000.

11
12
13 

14 Mark R. Ortlieb
15 Senior Counsel
16 SBC Telecom, Inc.
17 5800 Northwest Parkway, Suite 125
18 Room 1-T-20
19 San Antonio, Texas 78249
20 (210) 641-3575 (Telephone)
21 (210) 641-3547 (Facsimile)

22
23
24 ORIGINAL and TEN COPIES
25 of the foregoing filed this 20th
26 day of November, 2000, with:

27 Docket Control
28 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

COPIES of the foregoing
were delivered by U.S. Mail this
20th day of November, 2000, to:

Andrew D. Crain
Charles W. Steese
Thomas M. Dethlefs
U S WEST Communications, Inc.
1801 California Street, # 5100
Denver, Colorado 80202

Maureen Arnold
U S WEST Communications, Inc.
3033 N. Third Street, Room 1010
Phoenix, Arizona 85012

Timothy Berg
Fennemore Craig
3003 N. Central Ave., Suite 2600
Phoenix, Arizona 85016

Richard S. Wolters
AT&T Communications of the
Mountain States, Inc.
1875 Lawrence Street, Room 1575
Denver, Colorado 80202

Patricia L. vanMidde
AT&T
2800 N. Central Avenue, Suite 828
Phoenix, Arizona 85004

Joan Burke
Osborn Maledon
2929 N. Central Avenue, 21st Floor
P.O. Box 36379
Phoenix, Arizona 85067-6379

Michael M. Grant
Gallagher and Kennedy
2600 N. Central Avenue
Phoenix, Arizona 85004-3020

Mark Dioguardi
Tiffany and Bosco PA
500 Dial Tower
1850 N. Central Avenue
Phoenix, Arizona 85004

Penny Bewick
Electric Lightwave, Inc.
4400 NE 77th Avenue
Vancouver, Washington 98662

Thomas L. Mumaw
Snell & Wilmer
One Arizona Center

Phoenix, Arizona 85004-0001

Stephen H. Kukta
Sprint Communications Company, L.P.
External Affairs, Western Region
1850 Gateway Drive, 7th Floor
San Mateo, California 94404

Carrington Phillips
Cox Communications
1400 Lake Hearn Drive, N.E.
Atlanta, Georgia 30319

Thomas H. Campbell
Lewis & Roca
40 N. Central Avenue
Phoenix, Arizona 85007

Bill Haas
Richard Lipman
McLeodUSA
6400 C Street, SW
Cedar Rapids, Iowa 54206-3177

Richard Smith
Cox California Telecom, Inc.
Two Jack London Square
Oakland, California 94697

Richard M. Rindler
Morton J. Posner
Swidler Berlin Shereff Freidman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Michael W. Patten
Brown & Bain
2901 N. Central Avenue
P. O. Box 400
Phoenix, Arizona 85001-0400

Charles Kallenbach
American Communications Services, Inc.
131 National Business Parkway
Annapolis Junction, Maryland 20701

Karen L. Clauson
Thomas F. Dixon
MCI Telecommunications Corp.
707 17th Street, #3900
Denver, Colorado 80202

1 Joyce Hundley
United States Department of Justice
2 Antitrust Division
1401 H Street NW, Suite 8000
3 Washington, D.C. 20530

4 Scott Wakefield
RUCO
5 2828 N. Central Avenue, Suite 1200
Phoenix, Arizona 85004

6 Daniel Waggoner
7 Davis Wright Tremaine
2600 Century Square
8 1501 Fourth Avenue
Seattle, WA 98101-1688

9 Alaine Miller
10 NEXTLINK Communications, Inc.
500 108th Avenue NE, Suite 2200
11 Bellevue, WA 98004

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

THE QWEST PERFORMANCE ASSURANCE PLAN

1.0 Introduction

In conjunction with its applications to State Commissions for approval under Section 271 of the Telecommunications Act of 1996 (the “Act”) to offer in-region long distance service, Qwest Corporation (“Qwest”) proposes the following Performance Assurance Plan (“PAP”). Qwest is committed to continued compliance with its 271 obligations. As proof of that commitment, Qwest is prepared to voluntarily enter into this post-271 approval monitoring and enforcement mechanism, as outlined below, as a demonstration of its commitment to continue to satisfy Section 271 of the Act.

The Qwest PAP mirrors the performance assurance plan approved by the Federal Communications Commission (“FCC”) for Southwest Bell Telephone Company–Texas.¹ Qwest believes that controversy can be avoided and the resources of the State Commissions and the Company can be best utilized by avoiding a drawn out process of creating a performance assurance plan from scratch. Therefore, Qwest has taken the extraordinary step of duplicating key elements of the approved Texas plan.

The FCC has recognized that performance assurance plans may vary widely from state to state, but that the key elements of any plan should fall within a “zone of reasonableness” such that the plans provide incentives sufficient to foster ongoing satisfaction of 271 requirements.² Rather than “reinvent” key elements, the Qwest PAP adopts the Texas enforcement plan structure, including its statistical tables and payment schedules. Furthermore, the Qwest PAP puts at risk 36% of the Company’s “net revenues” derived from local exchange services.

2.0 Plan Structure

The Qwest PAP is a two-tiered, self-executing remedy plan. The plan is developed to provide individual CLECs with Tier-1 payments if Qwest does not provide parity between the service it provides to the CLEC and that which it provides to its retail customers, or if Qwest fails to meet applicable benchmarks. In addition, the PAP provides Qwest with additional incentives to satisfy parity and benchmark standards by requiring Qwest to make Tier-2 payments--payments to State Funds established by the State Commissions--if Qwest fails to meet parity and benchmark standards on an aggregate CLEC basis. Tier-2 payments are over and above the Tier-1 payments made to individual CLECs.³

¹ *In the Matter of the Application by SBC Communications, Inc.*, CC Docket No. 00-65, Memorandum Opinion and Order, June 30, 2000.

² *Id.*, para. 423.

³ It is anticipated that each state fund will be established concurrently with the FCC’s approval of the respective State’s 271 application.

In the Qwest PAP, performance measurements are given different weightings to reflect relative importance by the designations of High, Medium, and Low. Payment is generally on a per occurrence basis, i.e., a set dollar payment times the number of non-conforming service events. For the performance measurements which do not lend themselves to per occurrence payment, payment is on a per measurement basis, i.e., a set dollar payment. The level of payment also depends upon the number of consecutive months of non-conforming performance, i.e., an escalating payment the longer the duration of non-conforming performance.

The parity standard is met when the service Qwest provides to CLECs is equivalent to that which it provides to its retail customers. Statistically, parity exists when performance results for the CLEC and for the Qwest retail analogue result in a Z-value that is no greater than the Critical Z-values listed in the Critical Z-Statistical Table in section 5.0.⁴ The Qwest PAP relies upon statistical scoring to determine whether any difference between CLEC and Qwest performance results is significant, that is, not attributable to simple random variation.

For performance measurements that have no Qwest retail analogue, agreed upon benchmarks are used. Because variation may occur around the benchmark, a statistical test is used to determine whether the variation is within a statistical range.

3.0 Performance Measurements

The Qwest PAP incorporates performance measurements that will ensure Qwest's service performance to competitors can be measured and monitored so that any degradation of the agreed upon level of service is detected and corrected. CLECs operating in Qwest's region offer services through several modes, including resale, interconnection, and the purchase of unbundled network elements. The performance measurements incorporated into the Qwest PAP are broad based enough to cover all the modes of entry.

Performance measurements have been developed in the 271 collaborative workshops. Each of the measurements have been given a precise definition, called a Performance Indicator Definition ("PID"), that includes specification of the unit of measure, the data to be utilized in the measurement, and the standard. The standard may be a parity comparison of CLEC service performance with the Qwest retail analogue. When no retail analogue exists, the standard is a benchmark. The PIDs have been agreed to among Qwest, the CLECs, and participating State Commission staff members.

⁴ The standard Z-test is based on normal statistical theory. If the sample size is large enough, the sample mean will follow a known normal distribution that is dependent on the variance of the data and on the sample size. A sample size of 30 is generally considered sufficient, although the required minimum sample size is dependent on the statistical skewness of the data being sample. The assumption of a normal distribution is what allows the Z-test. When the sample size becomes too small, the distribution of the sample mean is no longer normal and the Z-test may not be reliable. In that event, other methods, as described below, may be appropriate.

The performance measurements incorporated into the Qwest PAP are shown on Attachment 1. Similar to the approved Texas plan, the measurements are designated as Tier-1, Tier-2, or both Tier-1 and Tier-2. The measurements are also given a High, Medium, or Low designation, reflective of relative importance. Of the 51 measurements that the parties have agreed to in the ROC PID workshops, Qwest incorporates 31 of the measurements into the PAP.⁵

4.0 Statistical Measurement

Qwest proposes the use of a statistical test, namely the modified “Z-test,” for evaluating the difference between two means (i.e., Qwest and CLEC service or repair intervals) or two percentages (e.g., Qwest and CLEC proportions), to determine whether a parity condition exists between the results for Qwest and the CLEC(s). The modified Z-tests are applicable if the number of data points are greater than 30 for a given measurement. For testing measurements for which the number of data points are 30 or less, Qwest may use a permutation test to determine the statistical significance of the difference between Qwest and CLEC.

Qwest will be in conformance when the monthly performance results for parity and benchmark measurements (whether in the form of means, percents, or proportions and at the equivalent level of disaggregation) are such that the calculated Z test statistics are not greater than the Critical Z-values. Critical Z-values are listed in Table 1, section 5.0.

The following is the formula for determining parity using the Z test:

$$Z = \text{DIFF} / \sigma_{\text{DIFF}}$$

Where;

$$\text{DIFF} = M_{\text{Qwest}} - M_{\text{CLEC}}$$

$$M_{\text{QWEST}} = \text{Qwest average or proportion}$$

$$M_{\text{CLEC}} = \text{CLEC average or proportion}$$

$$\sigma_{\text{DIFF}} = \text{SQRT} [\sigma^2_{\text{Qwest}} (1/n_{\text{CLEC}} + 1/n_{\text{Qwest}})]$$

$$\sigma^2_{\text{Qwest}} = \text{Calculated variance for Qwest}$$

$$n_{\text{Qwest}} = \text{number of observations or samples used in Qwest measurement}$$

⁵ Of the 20 PIDs not included in Qwest’s PAP, 14 are diagnostic or parity by design. As such, it is not appropriate to include them in a performance assurance plan. The remaining 6 measurements are not included because they were not requested by the CLECs in the Arizona 271 performance assurance workshops that are underway or are duplicative of other measurements that are included.

n_{CLEC} = number of observations or samples used in CLEC measurement

The following is the formula for determining conformance when the performance measurement is a benchmark:

$$z = (\text{DIFF}) / 1$$

Where;

$$\text{DIFF} = R_{\text{CLEC}} - B$$

R_{CLEC} is the CLEC result

B is the benchmark

The Z tests will be applied to reported measurements that contain more than 30 data points.

In calculating the difference between Qwest and CLEC performance, the above formulae apply when a larger Qwest value indicates a better level of performance. In cases where a smaller Qwest value indicates a higher level of performance, the order is reversed, i.e., $M_{\text{QWEST}} - M_{\text{CLEC}}$.

For measurements where the performance delivered to CLEC is compared to Qwest performance and for which the number of data points is 30 or less, Qwest will apply a permutation test to test for statistical significance. Permutation analysis will be applied to calculate the z statistic using the following logic:

Calculate the z statistic for the actual arrangement of the data

Pool and mix the CLEC and Qwest data sets

Perform the following 1000 times:

Randomly subdivide the pooled data sets into two pools, one the same size as the original CLEC data set (n_{CLEC}) and one reflecting the remaining data points, and one reflecting the remaining data points, (which is equal to the size of the original Qwest data set or n_{QWEST}).

Compute and store the Z-test score (Z_s) for this sample.

Count the number of times the Z statistic for a permutation of the data is greater than the actual Z statistic

Compute the fraction of permutations for which the statistic for the rearranged data is greater than the statistic for the actual samples

If the fraction is greater than α , one minus the significance level, the hypothesis of no difference is not rejected, and the test is passed.

5.0 Critical Z-value and K value

The Critical Z-value and K value table seeks to account for statistical error arising from the natural variation in the performance results. Together, the Critical Z-value and K value result in an adjustment for these statistical errors. The following table will be used to determine the Critical Z-value and the K value that is referred to in section 6.0. In each instance, they are based on the total number of performance measurements that are applicable to a CLEC in a particular month.

TABLE 1: CRITICAL Z-VALUE AND K VALUE

Total Number of CLEC Performance Measurements	K Values	Critical Z-Value
1	0	1.65
2	0	1.96
3	0	2.12
4	0	2.23
5	0	2.32
6	0	2.39
7	0	2.44
8	1	1.69
9	1	1.74
10-19	1	1.79
20-29	2	1.73
30-39	3	1.68
40-49	3	1.81
50-59	4	1.75
60-69	5	1.7
70-79	6	1.68
80-89	6	1.74
90-99	7	1.71
100-109	8	1.68
110-119	9	1.7
120-139	10	1.72
140-159	12	1.68
160-179	13	1.69
180-199	14	1.7
200-249	17	1.7
250-299	20	1.7
300-399	26	1.7
400-499	32	1.7
500-599	38	1.72
600-699	44	1.72
700-799	49	1.73
800-899	55	1.75
900-999	60	1.77
1000 and above	Calculated for Type-1 Error Probability of 5%	Calculated for Type-1 Error Probability of 5%

6.0 Tier-1 Payments to CLECs

Tier-1 payments to CLECs relate solely to the performance measurements designated as Tier-1 on Attachment 1. For purposes of calculating the amount of payments, the Tier-1 performance measurements are categorized as High, Medium, and Low. The amount of payments for non-conforming service varies depending upon the High, Medium, and Low designations and upon the duration of the non-conforming condition, as described below. “Non-conforming” service is defined in section 4.0.

6.1 Determination of Non-conforming Measurements: The number of performance measurements that are determined to be “non-conforming” and, therefore, eligible for Tier-1 payments, are limited according to the K value and Critical Z-value shown in Table 1, section 5.0. The Critical Z-values becomes the statistical standard that determines for each CLEC performance measurement whether Qwest has met parity or the benchmark. The K value determines the number of measurements that are excluded from the payment calculation described in section 8.0. The K value and Critical Z-value are determined from Table 1 by totaling the number of performance measurements applicable to a CLEC during a month where the sample size is 10 or greater. For instance, if the total number of measurements that capture the service provided by Qwest to a CLEC in a particular month was 100, the K value would be 8 and the Critical Z-value would be 1.68.

6.2 Determination of the Amount of Payment: Tier-1 payments to CLECs are calculated and paid monthly based on the number of performance measurements exceeding the Critical Z-value and the K value. Payments will be made on either a per occurrence or per measurement basis, depending upon the performance measurement, using the dollar amounts specified in Table 2 below. The dollar amounts vary depending upon whether the performance measurement is designated High, Medium, or Low and escalate depending upon the number of consecutive months for which Qwest has not met standard for the particular measurement.

For those performance measurements listed on Attachment 2 as “Performance Measurements Subject to Per Occurrence Payments With a Cap,” payment to a CLECs in a single month shall not exceed the amount listed in Table 2 below for the “Per Measurement” category. For those performance measurements listed on Attachment 2 as “Performance Measurements Subject to Per Measure Payments,” payment to a CLEC will be the amount set forth in Table 2 below under the section labeled “per measure.”

TABLE 2: TIER-1 PAYMENTS TO CLECs

Per occurrence						
Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6 and each following month

High	\$150	\$250	\$500	\$600	\$700	\$800
Medium	\$ 75	\$150	\$300	\$400	\$500	\$600
Low	\$ 25	\$ 50	\$100	\$200	\$300	\$400

Per Measure/Cap						
Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6 and each following month
High	\$25,000	\$50,000	\$75,000	\$100,000	\$125,000	\$150,000
Medium	\$10,000	\$20,000	\$30,000	\$ 40,000	\$ 50,000	\$ 60,000
Low	\$ 5,000	\$10,000	\$15,000	\$ 20,000	\$ 25,000	\$ 30,000

7.0 Tier-2 Payments to State Funds

Payments to State Funds established by the State Regulatory Commissions under Tier-2 of the Qwest PAP provide additional incentive to correct ongoing non-conformance. The payments are limited to the performance measurements designated as Tier-2 on Attachment 1. Similar to the Tier-1 structure, Tier-2 measurements are categorized as High, Medium, and Low and the amount of payments for non-conformance varies according to this categorization.

7.1 Determination of Non-conforming Measurements: The determination of non-conformance will be based upon the aggregate of all CLEC data for each Tier-2 performance measurements. “Non-conforming” service is defined in section 4.0. The number of performance measurements determined to be “non-conforming” and, therefore, eligible for Tier-2 payments, is limited according to the Critical Z-value shown in Table 1, section 5.0. The Critical Z-value is determined from Table 1 by totaling the number of performance measurements applicable to any CLEC during a month where the sample size is 10 or greater. The Critical Z-value becomes the statistical standard that determines for each performance measurement whether Qwest has met parity or the benchmark.

7.2 Determination of the Amount of Payment: Tier-2 payments are calculated and paid monthly based on the number of performance measurements exceeding the Critical Z-value for three consecutive months. Payment will be made on either a per occurrence or per measurement basis, whichever is applicable to the performance measurement, using the dollar amounts specified in Table 3 below. The dollar amounts vary depending upon whether the performance measurement is designated High, Medium, or Low.

For those Tier-2 measurements listed on Attachment 2 as “Performance Measurements Subject to Per Occurrence Payments With a Cap,” payment to a State Fund in a single month shall not exceed the amount listed in Table 3 for the “Per Measurement” category.

For those Tier-2 measurements listed in Attachment 2 as “Performance Measurements Subject to Per Measurement Payment,” payment to a State Fund will be the amount set forth in Table 3 under the section labeled “per measure”.

7.3 Use of the Funds: Qwest payments to the State Funds shall be used to reimburse customers' share of fees to extend telephone service within Qwest service territory, to extend Qwest telephone service into adjacent, unassigned service territory, and for any other purposes that relates to the Qwest service territory that may be determined by the State Commission.

TABLE 3: TIER-2 PAYMENTS TO STATE FUNDS

Per occurrence

Measurement Group	
High	\$500
Medium	\$300
Low	\$200

Per Measurement/Cap

Measurement Group	
High	\$75,000
Medium	\$30,000
Low	\$20,000

8.0 Step by Step Calculation of Tier-1 Payments to CLECs

The following describes step by step the calculation of Tier-1 payments. The calculation will be performed monthly for each CLEC.

8.1 Application of the K Value Exclusions:

For each CLEC, determine the total number of Tier-1 performance measurements⁶ that measure the service provided by Qwest for the month in question. From Table 1 in section 5.0, determine for each CLEC the K value and Critical Z-value to be used below.

For each CLEC, identify the Tier-1 performance measurements with a minimum sample size of 10 that Qwest's service performance is "non-conforming" for the month in question, using the Critical Z-value.

For the performance measurements that are identified as non-conforming, group the measurements according to the High, Medium, and Low categories shown on Attachment 1.

⁶ For the purpose of determining the K value and Critical Z-values, each disaggregated category of a performance measurement with a minimum sample size of 10 counts as "one" measure. For instance, a performance measurement that is disaggregated into 10 products, each further disaggregated into two geographic areas would count as "20" measurements.

Within each High, Medium, and Low group, sort the performance measurements in ascending order based on the number of data points or transactions used to develop the performance measurement result (e.g., service orders, collocation requests, installations, trouble reports).

Exclude the first “K” measurements designated as Low, starting with the performance measurement that has the fewest number of underlying data points. If the number of performance measurement in the Low category is less than “K,” repeat the process next with the Medium category and then the High category until a total of “K” performance measurements have been excluded. If all Low, Medium and High measurements are excluded by this process, then those measurements with sample sizes less than 10 may be excluded until “K” measurements are reached. (For example, if the K value is 6 and there are 7 Low measurements, 1 Medium, and 1 High, the 6 Low measurements with the smallest sample sizes are excluded from the calculation of payments to the CLEC.) The remaining “non-conforming” performance measurements, if any, are used to calculate Tier-1 payments to each CLEC.

The following qualifications apply to the general rule of excluding performance measurements as described above. A performance measurement, for which the payment is on a per measure basis, will not be excluded unless the amount of that measure’s payment is less than the payment that would result for each remaining measure. A performance measure, whose payment is on a per occurrence basis subject to a cap, will be excluded whenever the cap is reached and the payments for the remaining measurements are greater than the amount of the cap.

The "K" exemption will not apply if Qwest has been non-compliant in the previous two consecutive months for the following performance measurements: PIDs PO-5, MR-8, NI-1, CP-2. The "K" exemption will again apply when two consecutive months of compliant performance has been demonstrated.

8.2 Performance Measurements for which Payment is Per Occurrence:

The following describes the calculation of Tier-1 payments to CLECs in which payment is based upon a per occurrence dollar amount.

8.2.1 Performance Measurements that are Averages or Means:

Step 1: For each performance measurement, calculate the average or the mean that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measurements, calculate the value that would yield the critical Z-value by adding or subtracting the critical Z-value to the benchmark as appropriate.)

Step 2: Calculate the percentage differences between the actual averages and the calculated averages.

Step 3: For each performance measurement, multiply the total number of data points by the percentage calculated in the previous step and the per occurrence dollar amounts taken from the Tier-1 Payment Table to determine the payment to the CLEC for each non-conforming performance measurement.

8.2.2 Performance Measurements that are Percentages:

Step 1: For each performance measurement, calculate the percentage that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measurements, calculate the value that would yield the critical Z-value by adding or subtracting the critical Z-value to the benchmark as appropriate.)

Step 2: Calculate the difference between the actual percentages for the CLEC and the calculated percentages.

Step 3: For each performance measure, multiply the total number of data points by the difference in percentage calculated in the previous step and the per occurrence dollar amount taken from the Tier-1 Payment Table to determine the payment to the CLEC for each non-conforming performance measurement.

8.2.3 Performance Measurements that are Ratios or Proportions:

Step 1: For each performance measurements, calculate the rate that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measurements, calculate the value that would yield the critical Z-value by adding or subtracting the critical Z-value to the benchmark as appropriate.)

Step 2: Calculate the absolute percentage difference between the actual rates for the CLEC and the calculated ratios.

Step 3: For each performance measure, multiply the total number of data points by the difference percentage calculated in the previous step and the per occurrence dollar amount taken from the Tier-1 Payment Table to determine the payment to the CLEC for each non-conforming performance measurement.

8.3 Performance Measurements for which Payment is Per Measure:

For each performance measurement that Qwest fails to meet the standard, the payment to the CLEC is the dollar amount shown on the “per measure” portion of the Tier-1 Payment Table.

9.0 Step by Step Calculation of Tier-2 Payments

The following describes step by step the calculation of Tier-2 payments. The calculation will be performed monthly using the aggregate CLEC performance results. All Tier-2 payments will be made to a designated state fund.

Determine the total number of Tier-2 performance measurements⁷ that measure the service provided by Qwest to all CLECs for the month in question. From Table 1 in section 5.0, determine the Critical Z value to be used below.

Identify the Tier-2 performance measurement for which Qwest's service performance is non-conforming for the month in question, using the Critical Z-values.

For each performance measurements that is identified as non-conforming, determine if the non-conformance has continued for three consecutive months. If it has, a Tier-2 payment will be calculated as described below and will continue in each succeeding month until Qwest's performance meets the applicable standard. For example, Tier-2 payments will continue on a "rolling three month" basis, one payment for the average number of occurrences for months 1-3, one payment for the average number of occurrences for months 2-4, one payment for the average number of occurrences for months 3-5, and so forth, until satisfactory performance is established.

9.1 Performance Measurements for which Payment is Per Occurrence:

The following describes the calculation of Tier-2 payments to the State Fund in which payment is based upon a per occurrence dollar amount.

9.1.1 Performance Measurements that are Averages or Means:

Step 1: Calculate the monthly average average or the mean for the measure for the aggregate CLEC each performance measurement that would yield the Critical Z-value for each month the third consecutive month. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measurements, calculate the value that would yield the Critical Z-value by adding or subtracting the Critical Z-value to the benchmark as appropriate.)

Step 2: Calculate the percentage difference between the actual averages and the calculated average for each month: s for the third consecutive month. The calculation is as follows:

Parity Measurements:

%diff = (actual average - calculated average)/ calculated - average, (high average indicated poor performance.) The percent difference will be capped at a maximum of 100%.

Benchmark Measurements:

⁷ For the purpose of determining the Critical Z-value, each disaggregated category of a performance measurement with a minimum sample size of 10 counts as "one" measure. For instance, a performance measurement that is disaggregated into 10 products, each further disaggregated into two geographic areas would count as "20" measurements.

%diff - (actual average - benchmark - critical Z)/ actual average.

Step 3: For each performance measure, multiply the total number of data points each month by the percentage calculated in the previous step. Calculate the average for three months, rounding to the next integer and multiply the result by the per occurrence dollar amounts taken from the Tier-2 Payment Table to determine the payment to the State Fund for each non-conforming performance measurement.

9.1.2 Performance Measurements that are Percentages:

Step 1: For each performance measurement, calculate the ~~percentage~~ monthly percentage for the measure for the aggregate CLEC that would yield the Critical Z-value for each month the third consecutive month. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measurements, calculate the value that would yield the critical Z-value by adding or subtracting the Critical Z-value to the benchmark as appropriate.)

Step 2: Calculate the difference between the actual percentages for the aggregate CLEC and the calculated percentages for each of the three non-conforming months. The calculation is as follows:

Parity Measurements:

Diff - clec_result - calculated percentage. (This formula is applicable where a high value is indicative of poor performance. The formula is reversed where high performance is indicative of good performance.)

Benchmark Measurements:

Diff = clec result- benchmark - critical Z value (if applicable)

Step 3: For each performance measurement, multiply the total number of data points for each month by the difference in percentage calculated in the previous step. Calculate the average for three months rounding to the next integer and multiply the result by the per occurrence dollar amounts taken from the Tier-2 Payment Table to determine the payment to the State Fund for each non-conforming performance measurement.

9.1.3 Performance Measurements that are Ratios or Proportions:

Step 1: For each performance measurement, calculate the rate for the measure for the aggregate CLEC ~~is~~ that would yield the Critical Z-value each month ~~for the third consecutive month.~~ Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measurements, calculate the value that would yield the Critical Z-value by adding or subtracting the Critical Z-value to the benchmark as appropriate.)

Step 2: Calculate the percentage difference between the actual rates for the CLEC and the calculated rates for each month of the non-conforming three-month period.

Step 3: For each performance measurement, multiply the total number of data points by the difference percentage calculated in the previous step for each month. Calculate the average for three months rounding to the next integer and multiply the result by the per occurrence dollar amounts taken from the Tier-2 Payment Table to determine the payment to the State Fund for each non-conforming performance measurement.

9.2 Performance Measurements that Payment is Per Measure:

For each performance measurement that Qwest fails to meet the standard, the payment to the State Fund is the dollar amount shown on the “per measure” portion of the Tier-2 Payment Table.

10.0 Payment

Payments to CLECs or the State Fund shall be made one month following the due date of the performance measurement report for the month for which payment is being made.

Payment to CLECs will be made via bill credits. To the extent that a monthly payment owed to a CLEC under this PAP exceeds the amount owed to Qwest by the CLEC on a monthly bill, Qwest will issue a check or wire transfer to the CLEC in the amount of the overage. Payment to the State Fund will be made via check or wire transfer.

11.0 Cap on Tier-1 and Tier-2 Payments

There shall be a cap on the total payments by Qwest during a calendar year for each of the 14 states. The cap amounts by state are shown on Attachment 3. The cap represents 36% of the “net revenues” as defined in the FCC’s order approving the Bell Atlantic-New York 271 application and affirmed in the FCC order approving the Southwest Bell Telephone-Texas 271 application.⁸ The cap applies to the aggregate of Tier-1 payments to CLECs, including payments made pursuant to any other alternative performance obligations pursuant to an interconnection agreement with a CLEC, Tier-2 payments to State Funds, and any other payments required by State Commissions pursuant to service quality rules, orders or other agreements that relate to the same or analogous service.

The individual state amounts shown on Attachment 3 were calculated based upon Qwest’s 1999 ARMIS results, adjusted to reflect the full annual effect of general rate case orders of the respective state regulatory commissions.

⁸ Federal Communications Commission, CC Docket No. 99-404, Memorandum Opinion and Order, December 22, 1999, Para. 436 and footnote 1332; Federal Communications Commission, CC Docket No. 00-65, Memorandum Opinion and Order, June 30, 2000, Para 424.

A monthly cap will be determined by dividing the amount of the annual cap by twelve. The monthly cap shall be calculated by applying all payments or credits made by Qwest under this PAP as well as all payments made or credits applied for wholesale service performance pursuant to interconnection agreements, state rules or orders. To the extent in any given month the monthly cap (i.e., the annual cap divided by 12) is not reached, the subsequent month's cap will be increased by an amount equal to the unpaid portion of the previous month's cap. At the end of the year, if the aggregate of all payments for which the cap applies equals or exceeds the annual cap, but Qwest has paid less than that amount due to the monthly cap, Qwest shall be required to pay an amount equal to the annual cap. In such an event, Tier-1 payments shall be paid first on a pro rata basis to CLECs, and any remainder within the annual cap, shall be paid as Tier-2 payments. In the event the total of Tier-1 and Tier-2 payments is less than the annual cap, Qwest shall be obligated to pay only the actual calculated amount of Tier-1 and Tier-2 payments.

In the event the annual cap is reached within a calendar year and Qwest continues to deliver non-conforming performance during the same year to any CLEC or to all CLECs, the Commission may recommend to the FCC that Qwest should cease offering in-region interLATA services to new customers.

12.0 Limitations

12.1 Qwest's PAP shall not become available in a State unless and until the FCC approves Qwest's 271 application for that State.

12.2 Qwest will not be liable for Tier-1 or Tier-2 payments to a specific CLEC in an FCC approved state until the Commission has approved an interconnection agreement between the CLEC and Qwest that adopts the provisions of this PAP.

12.3 Qwest shall not be obligated to make Tier-1 or Tier-2 payments for any measurement if and to the extent that non-conformance for that measurement was the result of any of the following: a Force Majeure event; an act or omission by a CLEC that is contrary to any of its obligations under its interconnection agreement with Qwest or under the Act or State law; an act or omission by a CLEC that is in bad faith⁹; non-Qwest problems associated with third-party systems or equipment, which could not have been avoided by Qwest in the exercise of reasonable diligence, provided, however, that this third party exclusion will not be raised more than three times within a calendar year. Qwest will not be excused from Tier-1 or Tier-2 payments on any other grounds, except as described in paragraph 12.7. Qwest will have the burden to demonstrate that its non-conformance with the performance measure was excused on one of the grounds described in this PAP.

⁹ Examples of bad faith conduct include, but are not limited to: unreasonably holding service orders and/or applications, "dumping" orders or applications in unreasonable large batches, "dumping" orders or applications at or near the close of a business day, on a Friday evening or prior to a holiday, and failing to provide timely forecasts to Qwest for services or facilities when such forecasts are required to reasonably provide services or facilities.

12.4 Any CLEC accepting this PAP agrees that Qwest's performance with respect to this remedy plan may not be used as an admission against Qwest's interest. Nor may it be used as an admission by Qwest of liability in any legal, regulatory, or other proceeding, used as evidence that Qwest has discriminated in the provision of any facilities or services under Section 251 or 252 or has violated any state or federal law or regulation. Any Qwest conduct underlying the performance measurements and the performance data provided under the performance measurements are not made inadmissible by these terms.

12.5 By incorporating these liquidated damages terms into the PAP, Qwest and CLECs accepting this PAP agree that proof of damages from any non-conforming performance measurements would be difficult to ascertain and, therefore, liquidated damages are a reasonable approximation of any contractual damages that may result from a non-conforming performance measure. Qwest and CLEC further agree that payments made pursuant to this PAP are not intended to be a penalty.

12.6 If a CLEC agreeing to this PAP receives payments or credits pursuant to a Commission rule, order or any other contract with Qwest for the same or analogous wholesale performance covered by this PAP, CLEC agrees to waive any claim to credits or payments under this PAP.

12.7 Qwest shall not be liable for any Tier-2 payments if Qwest has been assessed or made payments for the same or analogous performance pursuant to any Commission order or service quality rules.

12.8 Whenever a Qwest Tier-1 payment to an individual CLEC exceeds \$3 million in a month, or when all CLEC Tier-1 payments in any given month exceed the monthly cap (section 11.0), Qwest may commence a show cause proceeding. Upon timely commencement of the show cause proceeding, Qwest must pay the balance of payments owed in excess of the threshold amount into escrow, to be held by a third party pending the outcome of the show cause proceeding. To invoke these escrow provisions, Qwest must file with the Commission, not later than the due date of the Tier-1 payments, an application to show cause why it should not be required to pay any amount in excess of the procedural threshold. Qwest will have the burden of proof to demonstrate why, under the circumstances, it would be unjust to require it to make the payments in excess of the applicable threshold amount. If Qwest reports non-conforming performance to a CLEC for three consecutive months on 20% or more of the measurements reported to the CLEC and has incurred no more than \$1 million in liability to the CLEC, the CLEC may commence a similar show cause proceeding. In any such proceeding the CLEC will have the burden of proof to demonstrate why, under the circumstances, justice requires Qwest to make payments in excess of the amount calculated pursuant to the terms of the PAP.

13.0 Reporting

Upon FCC 271 approval for a state, Qwest will provide CLECs which have approved interconnection agreements with Qwest a monthly report of Qwest's performance for the

measurements identified in the PAP by the 20⁵th day of the month following the month for which performance results are being reported. Qwest will collect, analyze, and report performance data for the measurements listed on Attachment 1 in accordance with the most recent version of the Service Performance Indicator Definitions (PID). Upon a CLEC's request, data files of the CLEC's raw data, or any subset thereof, will be transmitted, without charge, to the CLEC in a mutually acceptable format, protocol, and transmission medium.

Qwest will also provide the Commission a monthly report of aggregate CLEC performance results pursuant to the PAP by the 20⁵th day of the month following the month for which performance results are being reported. Individual CLEC reports will also be available to the Commission upon request. Upon the Commission's request, data files of the CLEC raw data, or any subject thereof, will be transmitted, without charge, to the Commission in a mutually acceptable format, protocol, and transmission form. By accepting this PAP, each CLEC consents to Qwest providing that CLEC's report and raw data to State Commissions upon the Commission's request.

14.0 Reviews

Every six (6) months, Qwest, CLECs, and the Commission shall review the performance measurements to determine whether measurements should be added, deleted, or modified; whether the applicable benchmark standards should be modified or replaced by parity standards; and whether to move a classification of a measure to High, Medium, or Low or Tier-1 to Tier-2. The criterion for reclassification of a measure shall be whether the actual volume of data points was less or greater than anticipated. Criteria for review of performance measurements, other than for possible reclassification, shall be whether there exists an omission or failure to capture intended performance, and whether there is duplication of another measurement. The first six-month period will begin upon the FCC's approval of Qwest's 271 application for that particular state. Qwest Any changes to existing performance measurements and this PAP shall be by mutual agreement of the parties.

Qwest will make the PAP available for CLEC interconnection agreements until such time as Qwest eliminates its Section 272 affiliate. At that time, the Commission and Qwest shall review the appropriateness of the PAP and whether its continuation is necessary. However, in the event Qwest exists the interLATA market, that state PAP shall be rescinded immediately.

15.0 Voluntary Performance Assurance Plan

This plan represents Qwest's voluntary offer to provide performance assurance. Nothing in this plan or in any conclusion of non-conformance of Qwest's service performance with the standards defined in this plan shall be construed to be, of itself, non-conformance with the Act.

16.0 General Assessments:

If Qwest fails to submit performance reports by the 20th day of the month, the following assessments apply unless excused for good cause by the Commission:

- If no reports are filed, \$5,000 per day past due:
- If incomplete reports are filed, \$1,000 per day for each missing performance results.

If Qwest alters previously reported data to a CLEC, and after discussions with Qwest the CLEC disputed such alterations, then the CLEC may ask the Commission to review the submissions and the Commission may take appropriate action. This does not apply to the limitation stated under the section titled "Limitations."

When Qwest performance created an obligation to pay liquidated damages to CLEC under the terms set forth herein, Qwest shall make payment in the required amount on or before the 30th day following the due date of the performance measurement report for the month in which the obligation arose (e.g., if Qwest performance through March is such that Qwest owes liquidated damages to CLEC for March performance, then those payments will be due May 15, 30 days after the April 15 due date for reporting March data). For each day that Qwest fails to pay the required amount, Qwest will pay interest to CLEC at the maximum rate permitted by law for a past due liquidated damages obligation.

The cap provided in Section 11.0 does not apply to assessments under section 16 of this attachment.

Qwest agrees to provide the following whenever it reports for two consecutive parity or benchmark violations on any Performance Measurement identified below, and for each succeeding consecutive violation of the Measurement.

In the event Qwest misses any Tier-2 measurement for two consecutive months, and for each succeeding violation of the measurement, Qwest shall conduct an investigation to identify the problem and take corrective action. In addition, Qwest shall post such findings and a description of corrective action on its web site.

In the event Qwest misses any Tier-1 measurement for two consecutive months, for each succeeding violation of the measurement, upon request from a CLEC, Qwest shall conduct a joint investigation with the requesting CLEC to identify and resolve the problem in a cooperative manner. Such corrective action may include additional training, allocation of additional resources, or modification of Qwest processes, to the extent appropriate.

Attachment 1: Tier-1 and Tier-2 Performance Measurements

Performance Measurement		Tier-1 Payments			Tier-2 Payments		
		Low	Med	High	Low	Med	High
GATEWAY AVAILABILITY							
Availability of IMA – IMA-GUI	GA-1						X
Gateway Availability – IMA-EDI	GA-2						X
PRE-ORDER/ORDERS							
Pre-Order/Order Response Time	PO-1	X				X	
LSR Rejection Notice Interval	PO-3	X					
Firm Order Confirmations On Time	PO-5	X				X*	
Billing Completion Notification Timeliness	PO-7	X					
Jeopardy Notice Interval	PO-8	X					
ORDERING AND PROVISIONING							
Calls Answered within Twenty Seconds	OP-2						X
Installation Commitments Met	OP-3			X			X
Installation Intervals	OP-4			X			X
New Service Installation Only	OP-5			X			X
Number Portability Timeliness	OP-8		X			X	
Coordinated Cuts On Time – Unbundled Loops	OP-13a		X			X	
MAINTENANCE AND REPAIR							
Calls Answered within 20 seconds-Interconnect	MR-2						X
Out of Service Cleared within 24 hours	MR-3		X				
All Troubles Cleared within 4 hours	MR-5		X				
Repair Repeat Report Rate	MR-7			X			X
Trouble Rate	MR-8			X			X
Repair Appointments Met	MR-9			X			X
BILLING							
Time to Provide Recorded Usage Records	BI-1	X					
Invoices Delivered within 10 Days	BI-2	X					X
Billing Accuracy-Adjustments for Errors	BI-3	X					
Billing Completeness	BI-4	X				X	
NETWORK PERFORMANCE							
Trunk Blocking	NI-1			X			X
NXX Code Activation	NP-1			X			X
COLLOCATION							
Installation Interval	CP-1	X					
Installation Commitments Met	CP-2			X			X
Feasibility Study Interval	CP-3	X					
Feasibility Study Commitments Met	CP-4	X					
Quote Interval	CP-5	X					
Quote Commitment Met	CP-6	X					

* Some PID Sub-Measurements are Tier1 only.

Attachment 2

Performance Measurements Subject to Per Occurrence Payments With a Cap

Pre-Order/Orders

- Pre-Order/Order Response Time – PO-1 (Tier-1/Tier-2)
- LSR Rejection Notice Interval – PO-3 (Tier-1)
- Firm Order Confirmation on Time – PO-5 (some sub-measurements do not have caps) (Tier-1/Tier-2)
- Billing Completion Notification Timeliness – PO-7 (Tier-1)

Billing

- Invoices Delivered within 10 Days – BI-2 (Tier-1/Tier-2)
- Billing Accuracy – Adjustments for Errors – BI-3 (Tier-1)
- Billing Completeness – BI-4 (Tier-1/Tier-2)

Network Performance

- Trunk Blocking – NI-1 (Tier-1/Tier-2)

Performance Measurements Subject to Per Measure Payments

Gateway Availability

- Availability of IMA – IMA-GUI – GA-1 (Tier-2)
- Gateway Availability – IMA-EDI – GA-2 (Tier-2)

Ordering & Provisioning

- Calls Answered within Twenty Seconds – OP-2 (Tier-2)

Maintenance & Repair

- Calls Answered within Twenty Seconds – MR-2 (Tier-2)

Attachment 3

Annual Cap on Qwest Payments

State (\$ Millions)	1999 ARMIS Net Return	Adjustment for Commission Rate Orders	Annual Cap
Arizona*	260	(59)*	72
Colorado	288	(10)	100
Idaho	68		24
Iowa	85		31
Minnesota	246	(18)	82
Montana	44		16
Nebraska	84		30
New Mexico	89	(10)**	28
North Dakota	35		13
Oregon	132	(32)	36
South Dakota	42		15
Utah	128		46
Washington	225		81
Wyoming	34		12
Total Qwest			588

* The Arizona adjustment reflects Commission's represcription Decision No. 62507, Docket No. T-01051B-97-0689. Docket No. T-01051B-99-105 is the general rate case in which revenue recover of the increased depreciation expense is at issue. Upon final order in the rate case, the annual cap will be revised to reflect the offsetting revenues.

** The New Mexico adjustment reflects the New Mexico Commission's interim rate order in Docket No. 3007. Permanent rates will be set in Docket No. 3008 and will be reflected in this adjustment when rates are final.